

Members

Rep. Sean Eberhart, Chairperson
Rep. Michael Karickhoff
Rep. David Cheatham
Rep. Kreg Battles
Sen. Ryan Mishler
Sen. Dennis Kruse
Sen. Lindel Hume
Sen. Richard Young



NATURAL RESOURCES STUDY COMMITTEE

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Authority: IC 2-5-5-1

MEETING MINUTES¹

Meeting Date/Time: September 19, 2011 (1:00 P.M.) &
September 20, 2011 (9:00 A.M.)

Meeting Place: Brown County State Park, 1405 SR 46, Abe
Martin Lodge, Allison Peabody Room

Meeting City: Nashville, Indiana

Meeting Number: 1

Members Present: Rep. Sean Eberhart, Chairperson; Rep. Michael Karickhoff;
Rep. David Cheatham; Sen. Ryan Mishler.

Members Absent: Rep. Kreg Battles; Sen. Dennis Kruse; Sen. Lindel Hume; Sen.
Richard Young.

Representative Sean Eberhart (Chair) called the meeting to order at 1:05 p.m. After members and staff of the Natural Resources Study Committee (Committee) introduced themselves, the Chair called upon the Park Manager to provide the Committee with information concerning Brown County State Park.

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative> Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

Brown County State Park

Doug Baird, Park Manager, Brown County State Park, Department of Natural Resources (DNR)

Mr. Baird stated that Brown County State Park contained nearly 16,000 acres, making it the state's largest park. All of the virgin timber in the area was harvested in the late 19th century. The soil and terrain were not conducive for farming, so an area was set aside as a game preserve. In 1929, 2000 acres were used to establish Brown County State Park. In the 1930's, the Abe Martin Lodge was built and the Civilian Conservation Corps constructed many of the roads and buildings used in the park. Today the park contains many miles of trails, including trails for horses and mountain bikes. The park has about 1.5 million visitors per year, which brings in about \$1.9 million to the park and \$4.0 million to the lodge in gross revenue. The park's busiest season is in autumn when many visitors come to see the tree's fall colors.

In response to questions by Committee members, Mr. Baird stated that the biggest need was more money to maintain and upgrade the park's facilities.

Update by the Department of Natural Resources

Chris Smith, Legislative Director, DNR

Mr. Smith provided the Committee with an update of various programs, laws, regulations, and policies that had taken place or been enacted in the previous year. Mr. Smith distributed certain new hunting rules. (Exhibit #1) His presentation included the following information:

- Revenues from various licenses and fees are down 3% from the previous year. Much of the decline is attributable to the wet spring and hot June that Indiana experienced.
- DNR conducted the 3rd Annual Hoosier Outdoor Experience Program at Ft. Harrison State Park this September. The event is free and is Indiana's largest, hands-on outdoor recreation event. It featured more than 50 activities and 120 local state partners.
- Inns at the parks have been operating at a 60% occupancy level, which is comparable to the occupancy rate of hotels.
- The use of lakes and rivers by sportsmen and recreational boaters has been busy.
- The four Senate bills, two House bills, and a Senate Joint Resolution affecting natural resources enacted during the previous legislative session. Topics included the following:
 - Requiring a portable breath test when a motorboat is involved in a fatal accident or an accident involving serious bodily injury.
 - Prohibiting certain activities on the swim platform, in the wake, or on a towed device of certain motorboats.
 - Requiring the DNR to establish a pilot program for the purpose of containing and reducing invasive animal species in the Wabash River.
 - Changes to the falconry laws.
 - Changes to the abandoned mine laws.
 - Allowing a person to carry a loaded and operational firearm while operating an off-road vehicle or snowmobile under certain circumstances.

- Providing that an agritourism provider is not liable for the injury or death of an agritourism participant if the cause of the injury or death is an inherent risk of the agritourism activity.
- Constitutional right to hunt, fish, harvest game, or engage in the agricultural or commercial production of meat, fish, poultry, or dairy products.
- Allowing DNR to adopt emergency rules for most aspects of oil and gas and other petroleum regulation.
- Changes to coal mine, coal bed methane, and oil and gas laws.
- Registration of an off-road vehicle or snowmobile.
- Establishing the Indiana State Museum and Historic Sites Corporation as a public body corporate and politic to govern the state museum and historic sites.

In response to Committee questions, Mr. Smith stated the following:

- The Sportsmen's Caucus may be seeking legislation to allow various sportsmen volunteer groups to be eligible for a charity gaming license to raise funds.
- There may be future administrative rules concerning youth hunting licenses.
- The Natural Resources Commission is considering a rule to regulate the use of coyotes and foxes in enclosed areas to train hunting dogs.
- There have been 45 accidental drownings this year in Indiana from all sources (lakes, pools, etc.). Last year there were 42 drownings.
- Shooting ranges are not common at the state parks. Shooting ranges are located on the DNR properties at Atterbury, Huntington Reservoir, and Ft. Harrison State Park.

Present and Future Use of Versailles Lake

Representative Randy Frye, House District 67

Rep. Frye stated that a meeting was held in Ripley County in July to discuss the problems of silting in Versailles Lake, water needs of the local community, and future development of Versailles State Park. He distributed information concerning water supply issues and Versailles Lake restoration. (Exhibits # 2 & 3) Local residents expressed their love of the park and concern over its future. Sediment settling into the lake has made the lake practically unusable for many recreation activities. Future meetings are scheduled with other governmental entities, agencies, and local residents. Rep. Frye commended DNR for their assistance at these meetings. A solution to the water supply problem has been found, although it will take a couple of years to implement. Versailles State Park would be greatly improved if a lodge and horseman's camp were added to the facilities.

In response to Committee questions, Rep. Frye stated the following:

- Hoosier Hills Water District will be supplying water to the Versailles community. The water will come from ground water sources.
- There does not appear to be any required legislation needed to repair the lake, except for funding.
- A lodge with conference rooms at the park would benefit the park and provide needed facilities for the area.

Chris Smith, Legislative Director, DNR

Mr. Smith stated that Versailles Lake was created 50-60 years ago and because of the site where the lake was built is subject to sedimentation. Dredging would get the lake back to about 80% of its original capacity. The dredging would not prevent future silt deposits. Working with upstream owners and use of newer technologies would decrease the amount of sediment flowing into the lake.

The Chair requested that Steven Wenning, Staff Attorney for the Committee, review the responsibilities, procedures, and deadlines of the Committee. Upon the conclusion of Mr. Wenning's remarks, the Chair called for the presentation of the Invasive Species Council's report.

Invasive Species Council Update

Steve Yaninek, Chair, Indiana Invasive Species Council (Council), Professor of Entomology, Purdue University

Mr. Yaninek distributed a copy of the Council's 2011 report. (Exhibit # 4) After providing the Committee with a brief history of the establishment and formation of the Council, Mr. Yaninek provided the following information:

- The Council's first meeting was in 2010.
- To help assist the Council, the following specialized work groups and advisory committees have been created:
 - Reporting
 - Invasive Species Conference
 - Communications and Website
 - Data Collection and Management
 - Education/Outreach
 - Invasive Plant Advisory Committee
 - Aquatic Invasive Advisory Committee
- The Council has identified other groups in the state (e.g. Dow AgroSciences LLC, Indiana Forestry and Woodland Owners association, various government agencies) that identify or manage invasive species.
- The Council has incorporated the recommendations adopted in the Indiana Invasive Species Task Force Report to provide a measure of the activities and accomplishments of the Council.
- The Council is still waiting for the appointment by the Governor of the representative of industry. The Council needs to have all members appointed to adequately perform its duties.
- The Natural Resources Commission is scheduled to consider a rule prohibiting the sale, distribution, and transportation of certain invasive aquatic plants.

Phil Marshall, State Entomologist, DNR

Mr. Marshall stated that he is a member of the Council. He provided the Committee with the following information:

- The Invasive Plant Advisory Committee is trying to identify terrestrial invasive plants and rate each plant on its invasive tendencies.

- Hydrilla plants have been discovered in Lake Manitou, near Rochester, Indiana. Areas of the lake have been treated but because of the Hydrilla tubers in the sediment more treatments may be necessary.
- Areas that contain kudzu are being identified, followed by efforts to eradicate the plants.
- Before requesting the Natural Resources Commission to adopt a rule to restrict a plant, commercial dealers are contacted for their input.
- Wild boar have been illegally released by people who want to hunt them in the state.

Park Fees for Park restaurant Guests

Representative David Cheatham, House District 69

Rep. Cheatham stated that he had been asked by a constituent if a change could be made that would allow a person who only wants to eat at a restaurant at the lodge to not have to pay to enter the state park. Rep. Cheatham said that he had talked to personnel at Clifty State Park and discovered the following:

- During the summer an entrance fee is charged every day but during the off-season the fee is charged Thursday through Sunday.
- In the 1970's, Clifty Falls Park tried a time stamped ticket that allowed a person to receive a refund if the person left the park within a certain time.
- Some people will not go to a restaurant if they have to pay an extra fee.
- Some large groups (e.g. wedding receptions) can get the entrance fee waived.
- The parks encourage people to purchase yearly passes to reduce costs.
- The entrance fees are used to maintain the parks.

Daniel Bortner, Director, State Parks and Reservoirs, DNR

Mr. Bortner's remarks included the following information:

- State parks have been in Indiana for nearly 100 years. Access has always been fee based. The entrance fee was 10 cents in 1916.
- State parks are 71% self funded.
- Operations and maintenance costs are year round expenses.
- People pay entrance fees for the view and the experience.
- Currently, people who leave the park can drive out without stopping. Sometimes gatekeepers are too busy collecting entrance fees to also check people on their way out of the park.

In response to Committee questions, Mr. Bortner stated the following:

- The swimming pools at the parks do not make money, but having a pool helps fill up the camp grounds.
- The Indiana State Parks Inn is a private business that is owned by the state. The Fourwinds resort is located on private land that is leased by the state.
- The Indiana State Parks Inn is audited by the state each year.
- Profits from the state parks first go to paying off bonds. The remainder goes to the Division of State Parks and Reservoirs.

The Chair recessed the meeting for the evening and reconvened the meeting the next morning at 9:05 a.m.

Water Resources Management Program Update

Mark Basch, Section Head, Water Rights and Use, Division of Water, DNR

Mr. Basch delivered a PowerPoint presentation entitled "Update of Water Resource Availability, Management and Distribution in Indiana". (Exhibit # 5) Information provided by Mr. Basch included the following:

- The Division of Water maintains an electronic map of Indiana's groundwater resources. Well records since 1959 are accessible through the electronic maps. The U.S. Geological Survey maintains information concerning long term stream flow.
- IC 14-25-7-17 requires each significant water withdrawal facility (SWWF) to register with and report water withdrawals to the Commission. A SWWF is a facility capable of withdrawing 100,000 gallons of ground and/or surface water in one day.
- In 2010, SWWF's withdrew over 3 trillion gallons. This represented 36.6% of all the SWWF's capacity.
- IC 14-25-4 (Water rights; Emergency regulation) provides for:
 - Timely and reasonable compensation to owners of domestic wells affected by high capacity groundwater pumpage.
 - Restrictions on high capacity ground water pumping under certain conditions.
 - A restriction on high capacity pumping has only been implemented once since 1988.
- IC 14-25-5 (Emergency regulation of surface water rights) provides protection from the impacts of SWWF's on freshwater lakes.
- IC 14-25-2 allows the state to sell water from reservoirs for water supply purposes.
- The seven wells at Charleston State Park, which were part of the previous army ammunition plant, have a capacity to pump 75 million gallons of water per day.
- In 2013, the provisions of the Great Lakes Compact concerning withdrawals and consumptive uses come into effect. DNR is adopting rules to comply with the Compact's permitting requirements.
- Indiana has adopted a voluntary statewide water efficiency and conservation program.

Glenn Pratt, Sierra Club & NAACP

Mr. Pratt stated that the Indiana Utility Regulatory Commission has been working on adopting conservation goals for public water systems.

Lake Management Work Group Update

Representative Dick Dodge, House District 51

Rep. Dodge presented the Lake Management Work Group (Work Group) report to the Committee. (Exhibit # 6) Topics discussed by the Work Group have included the following:

- Concerns about phosphorous in fertilizers and the potential impact of nutrient inputs to lakes.
- Proliferation of piers, shore stations, aerators, and other structures.
- Mandatory seasonal removal of "temporary" structures (e.g. piers, boat lifts).
- Weed control, lake shore construction, and dredging rules.
- Control of aquatic nuisance invasive species.
- Toxic blue-green algae impacts on recreational use of lakes and drinking water supplies.
- Promoting the economic value of lakes in Indiana.

Many of the Work Group's topics have become legislative proposals. The Work Group has also supported the restoration of the Lake and River Enhancement (LARE) Fund to provide new grants to improve lakes and watersheds.

Rep. Dodge expressed concern over the six vacancies on the Work Group that have not been filled by the Governor.

Chris Smith, Legislative Director, DNR

Mr. Smith stated that LARE Fund money became available again this past July. Existing applications were used to award the grants. Applications for new purposes will be available for the next grant cycle.

Restrictions on Fertilizers Containing Phosphorous

Representative Dick Dodge, House District 51

Rep. Dodge distributed background information concerning phosphorous in fertilizers (Exhibits 7, 8, & 9) and stated the following:

- This issue was brought to the Work Group's attention in 2007. Both the town of Clear Lake and Steuben County had passed ordinances restricting the use of fertilizers containing phosphorous. Both ordinances were ruled invalid because of a law giving the State Chemist authority over fertilizers.
- In the 2011 legislative session, legislation was introduced to restrict, not ban, lawn fertilizers containing phosphorous.
- The problem is that water run off can carry the phosphorous from lawns to lakes. This creates blooms of blue-green algae that lower the oxygen levels in the lakes and kill the fish. The phosphorous also causes aquatic weeds to grow, adding to the cost of weed removal.
- Twelve states have adopted restrictions on lawn fertilizers that contain phosphorous.
- The State Chemist is currently adopting rules concerning agricultural fertilizers.
- Some companies are now manufacturing phosphorous free lawn fertilizers.

Dr. Bob Waltz, State Chemist

Dr. Waltz included the following information in his remarks:

- The issues and solutions to addressing phosphorous in lakes are complex. There are many natural sources that contribute to the problems, including the cycling of

phosphorous from within the lakes.

- The State Chemist's Office has been working with the residents in the Clear Lake area, including providing soil testing.
- Most established lawns do not need fertilizers that contain phosphorous.
- Over the past three years many companies have started offering phosphorous free lawn fertilizers.
- Commercial fertilizer applicators are required to be certified and receive continuing education.
- Phosphorous is not a restricted use product.

Reggie Cornett, Green Industry Alliance (GIA)

Mr. Cornett stated that turf managers use phosphorous as a tool to manage lawns. It is being used less often because of training, education, and cost. GIA wants to help educate the public though speaking to various groups and providing information in newspapers. The State Chemist currently has authority to adopt rules regulating the application of phosphorous.

Glenn Pratt, Sierra Club & NAACP

Mr. Pratt stated that 40 years ago the state and U.S. Environmental Protection Agency (EPA) studied the effects that phosphorous had on lakes. At the time, Lake Erie had dead-zones because of the lack of oxygen in the water and algae blooms were on the rise. Since that time many farmers have begun practicing no-till planting to reduce the run-off of sediment and nutrients from farm fields. Mr. Pratt would like restrictions on the application placed on both consumer and professional applicators. A soil test should be required before application of phosphorous, education by itself is not enough.

Barb Simpson, Indiana Wildlife Federation

Ms. Simpson stated that IWF surveyed local garden stores to determine the availability of phosphorous free fertilizers. (Exhibit # 10) All the stores offered some phosphorous free fertilizers. However, there is a need for more consumer information at the point of purchase. Restricting, not banning, the application of these fertilizers is not a "silver bullet" solution but it is "silver buckshot" which will affect a piece of the overall problem. Consumers and governmental agencies are spending lots of money to clean up the waterways and lakes, but a reasonable restriction would help reduce the problem.

Mark Shublak, Agribusiness Council of Indiana (ACI)

Mr. Shublak thanked the Work Group for spotlighting this issue. He distributed information entitled "Facts Regarding Phosphorous and Lawns". (Exhibit #11) ACI is concerned that a ban on residential use of phosphorous fertilizers will eventually become a ban on their use in agriculture. A few states have set up their own restrictions on the amount of phosphorous in residential fertilizers. This makes it difficult for manufacturers that have to make different blends for each state. Manufacturers are already reducing the amount of phosphorous for home lawns and farmers do not want to waste money on nutrients that are not needed. If any restrictions are needed they should come from the State Chemist.

Falon French, Hoosier Environmental Council

Mr. French stated that he agreed with IWF's comments. Some gardening centers provide information for consumers, others do not. HB1425 would have placed some restrictions on the non-agricultural application of fertilizers containing phosphorous, but would have also required consumer information to be made available. Many smaller communities do not have a store that provides phosphorous free fertilizers. Other ideas that could help include providing information on how to minimize runoff (e.g. rain gardens) and requiring soil testing.

Bob Kraft, Indiana Farm Bureau

Mr. Kraft stated that there is a problem with consumers applying their own fertilizer improperly. The trouble is how to effectively deal with the improper use of phosphorous by consumers. He does not want to create a new bureaucracy of "lawn police". Any restrictions create a slippery slope that may include farmers. He would prefer to allow the State Chemist to adopt rules regulating phosphorous rather than have an inflexible law.

John Hughes, Farmer

Mr. Hughes agreed with Farm Bureau's comments. He does not want to have a store clerk require a soil test before fertilizers can be purchased. He noted that some fishery groups actually suggest adding phosphorous to new ponds to encourage plant growth.

The Chair adjourned the meeting at 11:40 a.m.